

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x Civil Action No.: CV-05-303 (ERK) (RLM)
UNITED STATES OF AMERICA, §
§
Plaintiff, §
- against- §
§
NIVIA SANTOS GONZALEZ, §
§
Defendant. §
-----x

IN CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
★

PM. _____
TIME A.M. _____

DEFAULT JUDGMENT

Because Nivia Santos Gonzalez failed to appear to defend this action after having been served with process, it is ordered that a default be entered.

It is adjudged that the United States of America recover from Nivia Santos Gonzalez:

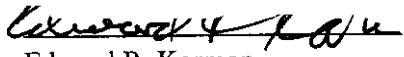
Claim No. C100-03165W

<u>Principal Balance:</u>	<u>\$3,221.48</u>
<u>Total Interest Accrued at 7.980%:</u>	<u>\$2,418.18</u>
<u>Filing and Service of Process:</u>	<u>\$150.00</u>
<u>Subtotal:</u>	<u>\$5,789.66</u>
<u>Attorney's Fees:</u>	<u>\$1,575.00</u>
<u>Total Owed:</u>	<u>\$7,364.66</u>

Post-judgment interest shall be calculated, pursuant to 28 U.S.C. §1961.

Signed: Brooklyn, New York

8/10, 2005


Edward R. Korman
United States District Judge

Received
7/25/05

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x	Civil Action No.: CV-05-303 (ERK) (RLM)
UNITED STATES OF AMERICA,	§
	§
Plaintiff,	§
- against-	§
	§
NIVIA SANTOS GONZALEZ,	§
	§
Defendant.	§
-----x	

MOTION FOR DEFAULT AND FINAL JUDGMENT
AND FOR APPROVAL OF LEGAL FEES

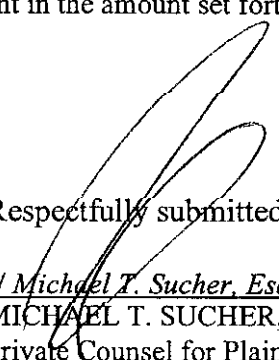
The Honorable Edward R. Korman:

United States of America ("USA") moves for final judgment against Nivia Santos Gonzalez ("Gonzalez") because Gonzalez has not answered, although duly summoned in the manner and for the length of time prescribed by law, and would further show that service was made on Gonzalez, and to USA's knowledge Gonzalez was not at the time of service in the military or naval service of the United States of America.

USA respectfully requests a final judgment in the amount set forth in the attached proposed judgment.

Dated: Brooklyn, New York
April 5, 2005

Respectfully submitted,


s/ Michael T. Sucher, Esq. (MS-9414)
MICHAEL T. SUCHER, ESQ.
Private Counsel for Plaintiff
United States of America
26 Court Street Suite 2412
Brooklyn, New York 11242
Tel. (718) 522-1995
Fax. (718) 797-3174

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----x	Civil Action No.: CV-05-303 (ERK) (RLM)
UNITED STATES OF AMERICA,	§
	§
Plaintiff,	§
- against-	§
	§
NIVIA SANTOS GONZALEZ,	§
	§
Defendant.	§
-----x	

AFFIRMATION OF AMOUNT DUE

MICHAEL T. SUCHER, ESQ., an attorney duly licensed to practice in the Courts of the State of New York and in this honorable Court, affirms the following to be true under penalties of perjury:

1. I am the attorney for the United States of America in the above-entitled and numbered action.
2. The records of the Clerk of this Court show that Nivia Santos Gonzalez ("Gonzalez") waived service of the Summons and Complaint in this cause on January 21, 2005.
3. More than 60 days have passed since such waiver of service and Gonzalez has failed to appear, plead or otherwise defend.
4. Gonzalez is not an infant or incompetent person and is not in the military service within the purview of the Servicemen's Civil Relief Act of 2003, as amended.
5. Reasonable Attorney's fees are specifically authorized for collection on the promissory note sued upon.
6. The sum of \$1,159.73 is hereby requested as attorney's fees—same being 20% of the total amount due as of this date.
7. It is respectfully submitted that 20% of the amount sought for collection is a reasonable amount of attorney's fees to award, and is in line with the percentage amount awarded as reasonable Attorneys' fees by federal courts. See, e.g., Yurman Designs, Inc. v. PAJ,

Inc., 29 Fed. Appx. 46 (2nd Circuit, 2002); Wombles Charteres, Inc. v. Orix Credit Alliance, Inc., 1999 U.S. Dist. LEXIS 16859 (S.D.N.Y., 1999); Peoples Westchester Sav. Bank v. Ganc, 715 F.Supp. 610 (S.D.N.Y., 1989) (“fees amounting to 20 percent or more of the amount recovered have been held to be reasonable [by the appellate courts]”).

8. Alternatively, if this Court will look only to the lodestar method of computation of attorney's fees, it is requested that this court fix attorney's fees in the sum of not less than \$1,575 based on our office's expenditure of not less than 4.5 hours in prosecuting this action through default, at this office's normal hourly rate of \$350 per hour. Our services on a typical collection case, resulting in a default, comprise the following services: *Upon receipt of a student loan collection file we review the same; skip trace; prepare and send correspondence to defendant; make numerous attempts at communication with the defendant; draft summons and complaint; file the same with court on paper and electronically; draft request for waiver of service and cover letter; transmit the same to defendant and file with court electronically; supervise completion of service of process and file the same electronically; prepare, serve and electronically file motion for default judgment; and follow PACER for Notation of Default and Default Judgment.*
9. Accordingly, it is respectfully requested that this court exercise its discretion and award a reasonable amount of attorney's fees to Plaintiff, United States of America.
10. Costs in this action comprise this court's filing fee of \$150, sought by Plaintiff pursuant to 28 U.S.C. 2412.
11. The following information is provided from the USA's records for this claim:

Claim No. C100-03165W:

Principal Balance:	\$3,221.48
Total Interest Accrued:	\$2,418.18
Filing and Service of Process:	\$150.00

Total Owed:

\$5,789.66

Interest Rate:

7.980%

WHEREFORE, it is respectfully requested that this Court enter judgment against the defendant in the sum of \$5,789.66, plus applicable interest, plus reasonable legal fees, and for such other and further relief as to this Court may seem just and proper.

Affirmed: Brooklyn, New York
April 5, 2005



s/ Michael T. Sucher, Esq. (MS-9414)
MICHAEL T. SUCHER, ESQ.

Private Counsel for Plaintiff
United States of America
26 Court Street Suite 2412
Brooklyn, New York 11242
Tel. (718) 522-1995
Fax (718) 797-3174

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----x	Civil Action No.: CV-05-303 (ERK) (RLM)
UNITED STATES OF AMERICA,	§
	§
Plaintiff,	§
- against-	§
	§
NIVIA SANTOS GONZALEZ,	§
	§
Defendant.	§
-----x	

NONMILITARY AFFIDAVIT

MICHAEL T. SUCHER, ESQ., an attorney duly licensed to practice in the Courts of the State of New York and in this honorable Court, affirms the following to be true under penalties of perjury:

1. I am attorney of record for Plaintiff in the above-entitled and numbered case.
2. I investigated whether Defendant, Nivia Santos Gonzalez is in military service, by inquiry to the United States Department of Defense, Manpower Data Center, which organization maintains files setting forth the names of all individuals in the world who are in active military duty in all branches of the United States military service.
3. Based on my investigation and on the attached Department of Defense, Manpower Data Center report dated April 5, 2005, setting forth that no records were found for a Nivia Santos Gonzalez being in the United States military service as of that date, I am convinced that Defendant, Nivia Santos Gonzalez is not in the military service of the United States, or of the State of New York, at the present time, nor has said Defendant, Nivia Santos Gonzalez been ordered to report for induction under the Selective Training and Service Act of 1940, as amended.
Defendant, Nivia Santos Gonzalez has not been ordered to report for military service as a member

of the Enlisted Reserve Corps., and he was not receiving any training or education under the supervision of the United States preliminary to induction.

Affirmed: Brooklyn, New York
April 5, 2005



s/ Michael T. Sucher, Esq. (MS-9414)

MICHAEL T. SUCHER, ESQ.

Private Counsel for Plaintiff

United States of America

26 Court Street Suite 2412

Brooklyn, New York 11242

Tel. (718) 522-1995

Fax. (718) 797-3174

Department of Defense Manpower Data Center

APR-05-2005 07:17:01



Military Status Report
Pursuant to the Servicemen's Civil Relief Act of 2003

Last Name	First	Middle	Begin Date	Active Duty Status	Service/Agency
GONZALEZ	NIVIA SANTOS				
Currently not on Active Military Duty, based on the Social Security Number and last name provided.					

Upon searching the information data banks of the Department of Defense Manpower Data Center, the above is the current status of the Defendant(s), per the Information provided, as to all branches of the Military.

Robert J. Brandewie, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

If you have information that makes you feel that the DMDC response is not correct, please fax your response to 703-696-4156 or call 703-696-6762 and further research will be done. For personal privacy reasons, SSNs are not available on this printed results page. Requesters submitting a SSN only receive verification that the SSN they submitted is a match or non-match.

UNITED STATES OF AMERICA,	x	Civil Action No.: CV-05-303 (ERK) (RLM)
	§	
	§	
Plaintiff,	§	
- against-	§	
	§	
NIVIA SANTOS GONZALEZ,	§	
	§	
Defendant.	§	
	x	

I, Robert C. Heinemann, Clerk of Court of the United States District Court for the Eastern District of New York, do hereby certify that the defendant has not filed an answer or otherwise moved with respect to the complaint herein. The default of defendant, Nivia Santos Gonzalez is hereby noted pursuant to rule 55(a) of the Federal Rules of Civil Procedure.

ROBERT C. HEINEMANN
Clerk of Court

By: _____
Deputy Clerk